

**Letter of Findings: 01-20210066
Indiana Individual Income Tax
For the Tax Year 2019**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual was responsible for additional Indiana income tax for the 2019 tax year because, after an examination with the best information available, the information established that Individual overstated his deductions, that he had a higher adjusted gross income, and that he did not qualify for the "Lake County Credit."

ISSUE

I. Indiana Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the Department's assessment of individual income tax for 2019.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed his 2019 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) in 2020. The Indiana Department of Revenue ("Department") cross-referenced information in its records with the best information available. The Department determined that, for the 2019 tax year, Taxpayer had overstated his business deductions on his Schedule C. The Department also determined that Taxpayer did not qualify for and was not allowed to claim a "Lake County Credit" in 2019. Thus, the Department concluded that Taxpayer owed additional Indiana and county income tax and, as a result, assessed Taxpayer additional income tax, penalty, and interest.

Taxpayer timely protested the assessment. An administrative hearing was held. This Letter of Findings ensues and addresses Taxpayer's protest of the proposed assessment. Additional facts will be provided, as necessary.

I. Indiana Individual Income Tax - Burden of Proof.

DISCUSSION

The Department determined that Taxpayer overstated his deductions and did not qualify for a tax credit offered to the county where he resided in 2019. As a result, the Department assessed Taxpayer additional income tax, penalty, and interest. Taxpayer disagreed, arguing that he was entitled to claim the business losses from previous tax years, that he qualified for the "Lake County Credit" in 2019, and the proposed assessment was incorrect.

The issue thus is whether Taxpayer provided sufficient documentation demonstrating that he was entitled to claim the business losses from previous tax years, that he qualified for the "Lake County Credit" in 2019, and the proposed assessment was incorrect.

As a threshold issue, all tax assessments are prima facie evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting their challenge that the

Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this case, the Department disallowed a \$28,358 deduction, which Taxpayer claimed as Indiana net operating losses. The Department determined that Taxpayer did not report any losses on his previous filings. Taxpayer therefore did not have any losses available to be carried over to 2019. The Department also determined that Taxpayer was not entitled to the Lake County Credit because his 2019 income exceeded the statutory threshold. The Department thus adjusted Taxpayer's 2019 filing to comport with the Department's record.

Throughout the protest process, Taxpayer contended that he was entitled to claim the business losses from previous tax years, that he qualified for the "Lake County Credit" in 2019, and the proposed assessment was incorrect. Taxpayer however did not provide verifiable records as requested, to support his protest. Thus, *in the absence of verifiable supporting document to substantiate that Taxpayer's contentions*, the Department is not able to agree that Taxpayer met his burden of demonstrating that the assessment was wrong.

In short, given the totality of the circumstances, Taxpayer has not met the burden imposed under IC § 6-8.1-5-1(c) and had additional income subject to Indiana and local income tax.

FINDING

Taxpayer's protest is respectfully denied.

May 25, 2021

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